G. R. S. 58]

Previous references.

File No. 91 — 1909

1909.

(Miscell)

Serial Nos. 1 to 5 & 8 to 11

Later references.

GENERAL AND REVENUE SECRETARIAT.

Serial Nos. 1 to 5 and 8 to 11.

Part B for — February 1910.

SUBJECT.

Warrant of attachment of monies belonging to the Sri Uttaradi Matt at Holenarasipur

---

Sl No 1. From the District Judge, Mysore. Dt. No. 339/100 Dt 30.7.
Forwards a warrant of attachment in duplicate in Execution No 1 of 1909-10 and requests that Money of the Defendant Uttaradi Matt in deposit with Govt may be held subject to the further of that Court.

Sl No 2. From the Munsiff of Holenarasipur. No 37 Dt 7
Forwards a prohibitory notice in of 1908-9 attaching the Money

GPB—5,000—22-10-10

G.R.S.11] 1909-10

GENERAL AND REVENUE SECRETARIAT

(Muzrai)

NOTES.

File No. 91-09

FILE HEADING.

Warrant of attachment of monies belonging to the Sri Uttaradi matt in deposit with Govt

From

The District Judge, Mysore Division.

No. 339/100 Dated 30. 7. 09 Received 2. 8 09

Diary No. 235	Enclos.	Spare Copies	Serial No. 1

BRIEF ABSTRACT OF LETTER.

Forwards a Warrant of attachment in duplicate in Execution case no 1 of 1909-10 on the file on his Court for service on the Secretary to Govt, Genl & Rev Depts, and requests that the money of the defendant Uttaradi matt in deposit with Govt may be held subject to the further order of that Court.

NOTES AND ORDERS.

2 1) The Munsiff of Hole Narsipur has sent another prohibitory notice in an Execution Case of his Court, attaching the money of the same Uttaradi Matt.

Submitted for orders. 2) Inform the Asst Commr & Collr of the attachment

4-8-09 3) Issue 5/8/1909

Dft to subst 26/7/1909

7

NOTES—First sheet

GPB—30,000—3-1-07

and Revenue Secretariat. | Mus File No. 91 of 1909

Serial No.

3 To the District Judge, Mysore Dn., Mysore.
No. 444 dated 12 8 09
Returns the original of the Warrant of Attachment the duplicate thereof having been served on

4 To the Munsiff of Hole Narsipur.
No. 445 dated 12th August 1909.
Returns the original of the Prohibitory notice, and states that duplicate thereof has been served on the individual named Nil.

4½ From the Munsiff of Hole Narsipur
No. 82 dated 20th August 1909.
Requests that the sum of Rs 283-1-3, being the amount attached under the Prohibitory notice, may be sent this Court on or before the 22nd Sept. 1909, for payment to the decree-holder viz Sarapaia Subbamma.

4) The defendant Sri Uttaradi Math and its endowments being under the direct management of Govt. the savings of the institution are also [illegible]
The Swamiji has presented a Review Application asking for the restoration of management which and the question is [illegible]

5) May a reply be sent to the Munsiff stating that pending the disposal by Govt. of the Review application of the Math, the money now in the hands of Govt., cannot be sent as requested?

6) The Secretariat [illegible]
[illegible]

Note—Contn. sheet.

GPB—50 000—18-5-08

Revenue riat. | Mwz File No. 91 of 1909

Serial No. 5

From

The District Judge, Mysore Dist., Mysore.

No. 668/188, dated 27th August 1909.

Requests that the sum of Rs 16,376-1-3, being the amount (belonging to the Sri Uttaradi Math) attached in Execution Case no. 1 of 1909-10 on the file of his Court, may be remitted within the 21st September 1909.

Submitted for orders.

31/8-09

P. J. A.

NOTE—Contn. sheet.

GPB—50,000—18-5 08

venue at.

Mug File No. 91 of 1909

Serial No.

8

From

The Swamigalu of the Sri Uttarade matt.

Petition No. D 956 dated 19th Nov. 1909.
Mug 91-09-8

Requests that the decrees and orders of attachment of the moneys of the matt in the hands of Govt. passed by the District Judge of Mysore and the Principal Munsiff of Hole Narsipur should not be given effect to.

8) The reasons adduced are:—

(1) That the matt has filed a suit in the Sub-Judge's Court at Mysore to cancel the decrees already passed in favor of the matt's defendants on the ground that the documents on which the decrees are based are not genuine.

(2) That the matt being a Mugpai matter the Civil Courts have no power to pass decide upon the hereditary nature of the defendants' rights as servants of the matt.

(3) That the matt moneys being in the hands of the Mugpai Superintendent in Bangalore neither the Dt. Judge of Mysore nor the Principal Munsiff of Hole Narsipur has jurisdiction [illegible] moneys.

Subd.

9) Under-Secretary's note:—

The question for decision is whether or not the money now in the hands of Govt. is liable to be

NOTE—Contn. sheet.

BPG—55,000—27-1-09

Revenue at.

Muz File No. 91 of 1909

Serial No.

attached by a Civil Court.

10) Two Courts have sent in Warrants of attachment. The Decree of the District Judge in execution of which the money has been attached, appears to be in appeal before the Chief Court. The Nath does not want to offer Security and get the execution Stayed. If, in obedience to the Warrant, the large Sum of Rs 16,000 and odd is sent and paid to the Decree-holders by the Court, there will be no means of recovering the Same, should the Decree be set aside The Nath therefore has approached Govt with the request that the money should not be sent to the Civil Court.

11) I have not anything to Say about the arguments urged by the Nath Advocate in his Petition of the 19th instant, but I would like to Say a few words about the general question of the attachment of the income of Naths. I shall Confine myself to two sources of income, Viz, the monthly Govt grant

NOTE—Contn. sheet.

BPG—55,000—27-4-09

Serial No.

and the Devadaya Inam lands.

(12) My contention is that the monthly grant and the Devadaya lands cannot be attached. I submitted this view in another connection and the Second Councillor concurring, perhaps, with the opinion expressed by the Chief Court, has directed that this matter should be made clear in the new Civil Procedure Code.

(13) A distinction has, however, been made between the Devadaya lands themselves and the income therefrom. In connection with this matt itself, the Chief Court have decided that the latter is attachable. As the money now in the hands of Govt partly consists of the income from the Inam lands, it is, according to this order, attachable. If such money is not to be attached, that also has to be made clear by Legislation

(14) Another contention of mine is that the Govt who attached the lands on account of the mis-management of the matt are not the Agents

BPG—55,0 0—27-4-09

Revenue Secretariat. | Inwg File No. 91 of 1909

Serial No.

thereof and that therefore the money in the hands of Govt cannot be attached though in the hands of others, the income from Devadaya lands would be attachable in accordance with the Chief Court order (15) I have referred to these matter in detail in my note in connection with the Matt's application for the review of H.H. Govt order of the 9th March 1906. That file has recently been returned with His Highness order; but I couldn't make up my mind to issue the same until the questions of the relationship between the Govt and the Matt, and the liability of the money to attachment were well threshed out until the money is made not liable to attachment, it is no use Govt retaining possession of the Matt properties; for, the money collected by them with great trouble will have to be made over to Civil Courts, if attached

Marked Y, in Matt file separately submitted this day

Submitted to II d Councillor

Ambalam ayar
Under-Secretary
29-11-09

File kept. G2.

2291

BPG—55,0 0—27-4-09

Inner File No. 91 of 1909

Serial No.

16) The attachments are made under S. 272 apparently, directing the public officer having the money in his custody to hold it 'subject to the further orders' of the Court. It is true that such attachments are followed by an order to remit the money to the Court, which thereafter applies it for the purpose of satisfying the ~~the~~ claims under its decrees. Such ~~are~~ orders are usually obeyed without question. But there is no provision under which (as far as I can see) the Court can ~~can~~ compel the public officer to pay up the money S. 268 which is a general rule applying to all parties (except Courts having custody of the property) makes it optional with the person prohibited by an attachment to pay up the money

NOTE.—Contn. sheet.

BPG—55,000—27-4-09

Serial No.

attached into Court, and such a payment would legally ~~dis~~ operate as an effectual discharge. But if he does not choose to do so, apparently the only course is to sell the claim and vest it in the purchaser under S. 303. The latter would then have to ~~go~~ file a suit for the amount.

17) It is an undesirable thing for government or any officer of government to set themselves ~~self~~ in opposition to the Courts. But as this seems to be an exceptional Case, we may inform the Courts that we are not willing to ~~dep~~ pay up ~~the~~ any money under the attachment, as the question whether it is liable to be attached is yet under consideration, and that we shall be ready to take the risk of suit

NOTE.—Contn. sheet.

BPG—55,000—27-4-09

Serial No.

ther proces that may be taken by the decree holders to enforce their decrees. If the latter or purchasers of the claims file suits against Govt, we may defend them, and charge the Costs incurred against the money due to the Swamis, as this position is taken up by us mainly at his suggestion.

(1) Please Consult the Govt Advs. unofficially on this matter before Sebn proceeding further.

4/12/09

Mem: M. O. No. 12 encls 12 files to 7-12-09

(2) Forwarded unofficially to the Govt advocate for opinion

7/12/1909

(1) 29 encls 8-12-09.

(2) Before forming an opinion in the case, it is necessary to know the result of the application of the Swamy for a review of the Proceedings of Govt dated 9th March 1906.

NOTE—Contn. sheet.

BPG—55,000—27-4-09

(17

Revenue at.

Misc File No. 91 of 1909

Serial No.

The file connected with the said proceedings may kindly be forwarded

8.12.09. S. Narayanadas
Govt adv

21) Manager Labour
— 8/12/09

Re. G. No. 13 encls 3 files & 9.12.09
22) The pleader's Memorandum pursuant to the issued on the Revision petn of this matter's Counsel forwarded.

Asstt Manager
9/12/09

U.O 32 dated 16-12-09

23) The course to be adopted by an attaching creditor of the money payable to his judgment debtor by a thrid person, when he (such third person) fails to pay into Court the amount due by him, is, as pointed out by the Learned Second Councillor, to apply to the --- Court to sell the debt under attachment and leave the purchaser to recover the same by means of a seperate suit.

24) The safest course for all Government officers is to respect the attachment orders of Civil Courts, by remitting to the Courts concerned the amount, if any, in their hands payable to the judgment debtor -- (vide para 3 of section 268 and section 270 C.P.C.). This has been the practice in all the departments o Government, and it is not advisable to depart fro. -- the

NOTE—Contn sheet.

GPB—55,000—27-4-09

Serial No.

the practice in the present case though at the ---- instance of the Swamy.

(15) In the two preceding paras, the fact that the Government officer is in possession of the money payable to the judgment debtor, is assumed. If he be not in possession of any such money, he cannot, of course comply with the order of such attachment. Non compliance with the Civil Court order can also be justified if there exist circumstances which afford a sufficient answer to a suit that may be brought for the recovery of the amount attached either by the purchaser of the same or by the judgment debtor himself after the withdrawl of the attachment. These considerations lead us to an examination of the nature of the amount now in the hands of Government.

(16) A number of persons calling themselves hereditory servants of the Mutt obtained decrees against the Swamy for restoration to their offices from which they had been dismissed by the then Swamy in 1885 and for the payment of arrears ~~of~~ pay and perquisites &c. The decree-holders or their representatives in interest did not succeed in making the Swamy or his successor re-employ them in the Mutt. In execution of these decrees, the money grant payable to the Mutt was attached. Seeing that the sums granted for the worship of the diety in the Mutt would be diverted for unauthorised purposes, the Government directed that

NOTE.—Contn sheet.

GPB—55,000—27-4-09

Serial No.

that the money grant may be placed under attachment. - Sometime after this, the Swamy appointed his successor and gave him "Asrama" without obtaining the approval of -- the Government to his nomination. The Government --- refused to recognise his successor as the new Swamy - and placed all the Inam lands of the Mutt under attach - ment. It is clear that these two attachments were -- ordered in the exercise of the Sovereign power of the State. The income of the Inam lands and the money -- grant were in the hands of Government not as agents of the Swamy, but directly in opposition to his interests. If the matter stood thus, the Civil Court attachments of the said sums would certainly be ineffectual.

27) The Proceedings of Government of 9th March 1906 virtually withdrew the attachments made by Government in consequence of ~~the~~ an alleged compromise between the Swamy and the so called heriditory servants (decree-holders) and converted the position of Government, in respect of the said income in their hands, to that of an agent or manager on behalf of the Swamy. The --- money in the hands of Government became payable to -- the Swamy and there was no valid excuse, so far as I am able to see, for the Government not to withhold as much of the amount as was attached by Civil Courts from being paid to the Swamy.

28) The Swamy then applied for a review of the -- said Proceedings of Govemment of 9th March 1906, and the

GPB—55,000—27-4-09

Serial No.

the order passed on review restored the attachment originally made of the money grant and the Inam lands on the ground that the Mutt has diverted the funds from the purposes for which they were originally -- granted, by allowing them to go to the use of ----- persons who rendered no services to the Institution during the past quarter of a century. The order --- further sanctioned a sum of Rs.15000/- to be paid to the Swamy as a contribution towards the expences incurred by him on his recent visit to Udupi.

29. Now so far as the accumulated income from the Inam lands and money grant is concerned, the Civil Court attachments are ineffectual, for the simple -- reason that the amount does not belong to, or, at all events, is not payable to the Swamy at present. But in respect of the 15000/- recently directed to be - paid to the Swamy, the difficulties which came in - existence on the passing of the Proceedings of 9th March 1906 have not been removed.

16.12.09. S. Narayana Rao
Govt. Advocate

30 ~~Submitted~~ Submitted & Secd. Com. for his ado of 17

Illegible

20/12/09

NOTE—Contn. sheet.

GPB—50.000—18-5-08

(1)

Serial No.

31) I believe the amount of 1500, has been paid over to the Swamis already.

32) Please draft a reply to the Civil Court, that Govt does not hold the money in ~~the~~ its hands ~~one~~ to be liable to satisfy the decrees, and is prepared to answer any claims that may be advanced ~~to~~ in ~~the~~ regular suits by the debtor or ~~the~~ purchasers in auction (as already indicated by me), and submit for approval to the Dewan.

29/12/09

33) Approved. Put up recommended draft.

Ex 9/ 6/1/1910

34) Issue draft herewith addressed to Dewan.

R 15000 have been paid to the Municipal Agent as per receipt attached.

Draft order in this record is also

NOTE—Contn. sheet.

GPB—55,000—27-4-09

an Revenue at.

Survey File No. 91 of 1909

(10) 16

Serial No.

Submitted herewith.

63

Ambalavanaga

3822 6.1.10

5/1/1910

35 If the 2 Counsellor has no objection Govt omit the last portion of the Prayer proposed viz "& is prepared ... ... from Govt" The challenge & the demand therein implied seems to be unnecessary —

300

7 Jan 10

Submitted

4/8/1910. 36 The clause suggested to be removed was put in to show that Govt is not wanting in the Courtesy due to processes of regular Courts. I would therefore suggest the alternative addition as below:

2522 12.1.1910

37 Govt does not Consider that the money in its hands is liable to satisfy the decrees ~~Govt~~ Sought & be executed. The Parties Concerned may therefore be left to proceed in such other ways as they may be advised to enforce their claims.

13/1/10

D Ewart

NOTE—Contn. sheet.

GPB—55,000—27-4-09

(17

Serial No.

39) 63 Remitted to Dewan Ambhaura

17/1/1910

39) 78 19/1-1-10. The Rajas now attend by me may be cried - [In the premises order Mine is addressed as to the expediency of the claims altogether] Illegible 19/1/10

300

40) Submitted to Hon'ble Councillor Ambhaura

21/1/1910

41) The draft order may issue as directed by the Dewan.

(What is "the previous order" referred to by the Dewan please?) 25/1/10

42) Issued 25/1/1910

Ref B

P.T.O

NOTE.—Contn. sheet.

BPG—55,000—27-1-09

18

enue at

Mus. File No. 91 of 1909

Serial No.

9 To the District Judge, Mysore.

Munsiff of Holenarsipur

Nos 1833 and 1834 dated 26th Jan^{y} 1910

States that Govt does not hold the moneys of the Sri Uttaradi Matt in its hands to be liable to satisfy the decrees sought to be executed against the Matt

10. From

The District Judge, Mysore

No 1935/580 dated 1st Feb^{y} 1910

Requests that, in that case, the legal agent may be instructed to file a formal objection statement on behalf of Govt, so that the matter may be duly investigated and decided under Sec. 278 of C.P.C., and states that the hearing for this purpose has been adjourned to 15th March 1910.

43) Sec 278 of C P C. runs as follows:—

"If any claim be preferred to, or any objection be made to the attachment of, any property attached in execution of a decree, on the ground that such property is not liable to such attachment, the Court shall proceed to investigate the claim or objection with the like power as regards the examination of the claimant or objector, and in all other respect, as if he was a party to the suit.

44) Provided that no such investigation shall be made where the Court considers that the claim or objection was designedly or unnecessarily delayed. × × × × × × × "

Subd by W/RLO

Note.—Contn. sheet.

BPG—55,000—27-1-09

(19)

5

Serial No.

45) Forwarded to Secretary.

I do not think that it is necessary to put in a claim petition. As pointed out by the Treasurer at the outset the Court can only decide the right to recover the money, & as soon as the question of that right has been decided the money will be available to them. The Court cannot compel us to pay the money unless a petition

46) has been filed. We file a claim petition and the D.C. Judge rejects it. The decision of the Court will not be followed.

A draft is submitted, as requested, as above.

Alfred Lyon

11/2/1910

47) The draft petition has not been approved by Mr S. Lyon.

48) Please put up a short draft to say that Govt are not prepared to institute any proceedings in Court as suggested by the D.J. Govt need not enter, I think, into the reasons for the step.

Draft submitted 15/2/10 SA

11/15/1910

49) Seen SA 21/2/1910

15/2/10 SA 341

Signed draft approved by Govt 17/2/10

50) GA

2859.

Note—Contn. sheet.

GPB—55,000—27-4-09

(20

File No. 91 of 190

Serial No.	
11.	To. The District Judge, Mirpore No. 2080 Dated 21st February 1910. States that Govt do not Consider it necessary to institute any proceedings in Court as suggested by him -

NOTE—Contn. sheet.

GPB—55,000—27-4-09

1909-10.

1

5

d 235

dcg 91-09 1

From

T. Paramasiva Iyer Esquire, B.A.,

District Judge, Mysore Division,

Mysore.

To

K.S. Chandrasekhara Aiyar Esquire, B.A.,B.L.,

Secretary to the Government of Mysore,

General and Revenue Departments,

Bangalore.

Dated 30th July 1909.

Despatched

Received

General No: 339
No: 100

Enclosures 2.

Sir,

I have the honour to forward herewith in duplicate a warrant of attachment in Execution Case No: 1 of 1909-10 on the file of this Court and to request that the same may be duly executed and the original returned to this Court on or before the date of hearing with due endorsement thereon.

I have the honour to be,

Sir,

Your most obedient servant

District Judge

2

Enclosure to D. No. 235
Mun 91-09-1

Attachment of money in deposit or with Government Officer
Sections 272 & 486. C. P. Code

Form No. 24, Civil.

IN THE COURT OF the District Judge AT Mysore.

Original. Suit No. 1 of 1904-05

Execution Application No. 1 of 1909-10

Subbiamiachar & 3 others Plaintiff. } Vs. { Defendant. Ootaradhi mutt.

To The Secretary to the Govt. of Mysore, General and Revenue Department ~~The Huzur Cutcherry Cook~~ Bangalore

Sir,

The plaintiff having applied under Section 272 of the Code of Civil Procedure for an attachment of certain money now in your hands, *viz*,

A Sum of Rupees 16326-1-3 belonging to deft Ootaradhi mutt.

I request that you will hold the said money subject to the further order of this Court.

Hearing 17 8 09.

I have the honor to be,
Sir,
Your most obedient servant,

DATED THE 17th DAY OF July 1909.

District Judge.

GPB—615—19-8-0

No 157 / 22-7-1909/10 3

From The Memsiff of
Holenarasipur

To The Superintendent,
Muzarai Department
Bangalore.

Dated 20th July 1909
Despatched
Received

General No. 37
No.

Enclosure No. 2

Sir,

In forwarding herewith in duplicate the prohibitory notice in execution No 779 of 1905 [illegible]

D 338

M.7. 91-09-2

XX SA
Send the usual rpts
Let all these be in one
place. a3
4/ 22/7/09

4 of this Court, I have the honour to request you to be good enough to cause the duplicate notice to be served on the individual named therein and return the original with due endorsement of Service made thereon on or before the 29th instant.

I have the honour to be,
Sir,
Your most obedient Svt,

T. Mahadevappa

Mys.

6

1078

2 Dft 15

G.R.S. 26 J..

File No. 91-09

Serial No. 3

Diary No. of letter replied to 235

No. 444 encl 1

M-7-91-09-3

General and Revenue Secretariat

(Mysuru)

, *the* 190

To

The District Judge,

Mysore Dn, Mysore.

Date of issue 12th August 09

Signed by Mr. A. S. Iyer,

Sir,

I am directed to return herewith the original warrant of attachment in Execution Case No 1 of 1909-10 on the file of your Court received with your letter No 339 dated 30th July 1909, the duplicate thereof having been served on the individual named therein.

I have &c,

97

9/8/(9-3

For Secretary

M-7/8/09

over.

SUBJECT.

List of enclosures,

Copied by

Examined by

GPB—10,000—23-5-08

G.R.S. 29A] 2 Dft 7

190 .

From

Secy. to the Govt. of His Highness the Maharaja of Mysore, Genl. and Rev. Dept.

To

The Munsiff of Hole Narsipur

Dated

Despatched 12-8-09

Received

General No. 645

No.

Enclosure No.

His letter no. 37, dated 10th July 1909, forwarding prohibitory notices in duplicate in Execution case no 779 of 1908-09 on the file of his Court.

— " —

Has the honor to return herewith the original of the prohibitory notice referred to above, the duplicate thereof having been served on the individual named therein.

By Order,

9/8/09

for Secretary.

7/8/09

D 406 8

Mwn 91 1909-10 4½

From

P Mahadevayya bpc B.A, B.L.
Munsiff,
Hole Narasipur.

To

The Inspector General,
Government of Mysore,
Bangalore.

Dated 20th August 1909

Despatched

Received

General No. 82
No.

Enclosure No

Sir,

With reference to your No: 445 M.F 91-09-4 dated 12th August 1909, accepting the service of the prohibitory notice in O.S. 690 of 1903-04 on the file of this Court, I have the honour to request

8A. Refer
Memo may be sent
Lent as desired.
Action note
27/8/09
4

I request you to be so good as to cause the amount attached vide: No 283-1-3 to be sent to this Court on or before the 22nd September 1909, the date fixed for the decree holder.

I have the honor to be
Sir,
Your most obedient servant

Illegible

Illegible

1909-10.

10

1501

From

D 474

Hwr F 91-09-5

T.Paramasiva Iyer Esquire, B.A.,

District Judge, Mysore Division,

Mysore.

Q a Continuance as advance 30/8/09

To

K.S.Chandrasekhara Aiyar Esquire, B.A.,B.L.,

Secretary to the Government of Mysore,

General and Revenue Departments,

Bangalore.

Dated 27th August 1909.

Despatched

Received

General No: 668
Mis No: 188

Enclosure No:

Sir,

I have the honour to request that you will be so good as to remit within the 21st September 1909 Rs 16326-1-3 being the amount attached in Execution No: 1 of 1909-10 on the file of this Court and referred to in your Letter No: 444/ M.F.91-09-3 dated 12th August 1909.

I have the honour to be,

Sir,

Your most obedient servant,

District Judge

19/11/09

Rec. & Comme note as

19.11.09

D 986

To. Mucg 91-09-5

The

Mujaroy Superintendent

to The Govt. of Mysore

Bangalore

A petition of The Swami-

galavaru of Uttradi Mutt humbly

Showeth as follows:-

1. The former Shanbhogue and

eleven other Servants of The Uttradi

mutt have obtained decrees

against the Mutt declaring

That- Their offices are hereditary

and they are entitled to certain

percentage on the gross income
The Mall and some other emoluments.

2. The said decrees were obtained on the strength of certain Nirupes and letters of His Highness the late Sree Krishnaraja Odeyar and Dewan Purnaiya, and also upon certain Danapatras and Sanadaya kaditi book etc, produced by the then Plaintiffs.

3. By a reference to the Shaka Amal' al- the Huzur records it is evident that the documents above named on which the decrees are mainly based are all forged documents. This was lately discovered. No mention is made of any of the above letters or Nirupes in the Shaka Amal

which contains a registry of all genuine documents issued from The Sovereign authority. From certain documents registered in The Shaha Amal, it is also evident That the Sampradaya pattali book and Danapatras could not have come into existance on the dates on which they are alleged to have come into existance. Suits have also been filed in The Subordinate Judge's Court of Mysore to cancel The said decrees on this and several other grounds.

4. A decree to compell the head of The Mutt to accept personal service from

particular individuals to

to law, acquity and good conscience,
and incapable of execution. See.
21. Class B. and the illustrations there
to of the Specific Relief Act-
which is in force in this province
bear out this contention. This
aspect of the case was not con-
sidered by the learned judges
who granted that the decrees
in question.

5. Even if the decree holder's
claim be genuin, the petitioners pre-
decessors in office were not-
competent to create such
burdonsome hereditary offices
some of which carry emolu-
ments at the rate of nearly
200 Rupees a month each in
addition to batta and other

most of the income of the
and bind their Successors in
the cases reported in the Indian
Law Reports 28 Madras, Page 291,
and 27 Madras, Pages 291-295 Privy
Council which deal with perpetual
leases created by the head of a Mutt
and which have been found
not-binding on the Successors
even after the lapse of nearly
hundred years, bear close re-
semblance to the cases in
and are authority for holding
that the petitioner is not-bound
to recognise the so called here-
ditary claim of the decree holders.

6. As the Vibradi Mutt
enjoys large money grant
and Inam lands from the

Mysore Govt

for the purpose of determining the claims of the hereditary servants must be considered as Mujaroy institution as per the Full Bench ruling of the Chief Court reported in volume 18 of the Mysore Law Reports, page 1. The case of the temple of Mahishi referred to in that judgment on page 8, para 4, is applicable to the case in question. According to the said decision civil courts have no jurisdiction to entertain suits relating to the hereditary claims of the Mutt Servants. In this view the decrees referred to above were passed by courts no diction to pass

Such decrees and are therefore
not- binding.

7. Some of these decree holders
and their ancestors are found
guilty of a gross mis conduct-
towards the Mutt in that-
They were concerned in the theft-
of a valuable gold Ambari
worth more than 20000 Rupees.
On this account- They have forfeited
their right- to their respective
offices even if they possessed any
and the forfeiture in all
reasonableness extends to their
decendants. On this score also
decree holders are not- entitled
to any relief.

8. The money in the hands of the
Mujaroy Superintendent- is
within the jurisdiction of H.

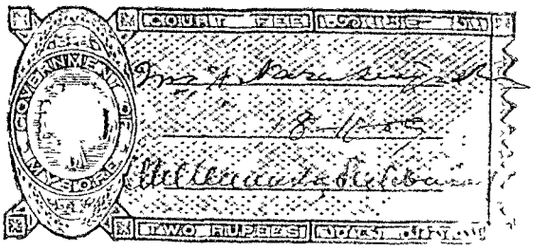
18

Courts in Bangalore city. The courts outside the said jurisdiction have no power under the provisions of the Civil Procedure code to order attachments of the money in question. In this case the Munsiff Courts of Holenarsipur and the district courts of Mysore have issued orders of attachment which are not legal and valid.

9. For the several reasons stated above the petitioner prays that the decrees and orders of attachment alluded to above should not be given effect unto and that the claims of the decree holders should be treated as a nullity.

H. Narasinga Rao

19-11-09



ಸೆಕ್ ೧೯೦ — ೧೯೦ ನೇ ಇನವಿ ನಂಬರು.

ವಾದಿ. ಪ್ರತಿವಾದಿ.

೧ನೇ ಕಳಗೆರುಜುವಾಡುವ

ಇದರಿಂದ ಮೇಲ್ಕಂಡ ಪೊಕದ್ದಮೆಯೆನ್ನು ಪರವಾಗಿ ಆಟೈರುವರಿವಿಗೂ ವಿವಾದಜರಿಗಿಸಲಿಕ್ಕೆ
ಲಾಯರ್ ಮಿಸ್ಟರ್ ರಿಗೆ ವಕಾಲತ್ತು ಕೊಟ್ಟಧೆ

೨ ಮೇಲ್ಕಂಡ ಪೊಕದ್ದಮೆಯಲ್ಲಿ ಪರವಾಗಿ ಆಗುವ ಎಲ್ಲಾವಿಧವಾದ ಆರ್ಡರನ್ನು ಡಿಕ್ರಿಯನ್ನು ಜಾರಿಮಾಡಿ, ಹಣ ವಸೂಲ್ ಮಾಡಿಕೊಳ್ಳುವದಕ್ಕೂ ಒಂದಹಣಕ್ಕೆ ರಶೀತಿ ಕೊಡುವದಕ್ಕೂ ಕೊರ್ಟಿನಿಂದ ರಿಫಂಡ್ ಸ್ಟ್ಯಾಂಪನ್ನುವಾಪಸು ತೆಗಸುಕೊಳ್ಳುವದಕ್ಕೂ ಮತ್ತು ವಸ್ತ್ರೆವಜುಗಳನ್ನು ವಾ ಪಸು ಪಡಿಯೆಲಿಕ್ಕೂ ಸಹ ಇದರಿಂದ ನಿಮಗೆಸಂಪೂರ್ಣವಾದಅಧಿಕಾರ ಕೊಟ್ಟಧೆ.

೩ ಈ ಆಧಾರವಮೇಲೆ ನೀವಾಗಲಿ ಮತ್ತು ನಿಮಗೋಸ್ಕರ ಮತ್ತಾವನ ಲಾಯರಾಗಲಿ ಮಾಡುವ ಮೇಲ್ಕಂಡ ಎಲ್ಲಾಕೆಲಸವನ್ನು ಪರವಾಗಿ ಹುಮ್ಮ ನಡಿಸಿದಂತೆ ಒಪ್ಪಿಕೊಳ್ಳಲು ಒದ್ದರಾಗಿರುತ್ತೇನೆ ರುಜುಮಾಡಿಧೆ.

ಕರ್ತಗಾರನು ಬಲ್ಲವನು ಧಾರೆ
ಸ್ವಾನಮಾಹ್ರರು ರುಜು ಮಾಡಿದಾ

ಒಪ್ಪಿದೆನು.

ಅಡ್ವೊಕೇಟ್ ಲಾಯರ್

26]

File No. 91-09

Serial No. 9

Diary No. of letter replied to 2354 338

No. 1833 & 1834

Mysz. 7. 91—09

General and Revenue Secretariat

( )

, *the* 190

To

1 The District Judge, Mysore.

2 The Munsiff of Hole narsipur.

Date of issue 26th January 1910

Signed by Wm. A. S. Dyer

1- Dt Judge's no 339 dated 30th July 1909
2. Munsiff's no 100 37 dated 20th July 1909

Sir,

With refee to your letter no. * dated * attaching, in execution of the decrees obtained against the Sri Uttaradi matt, the moneys belonging to the matt in the hands of Govt, I am directed to state that Govt does not hold the moneys in its hands to be liable to satisfy the decrees ~~and is prepared~~ to answer any claims that may be advanced in regular suits by the debtor or other persons that may choose to purchase in auction the alleged right of recovering this money from Govt.

I have &c

5/1/1910

for Secretary.

over

Ub 5/1/10

Lr not to be executed.

SUBJECT.

List of enclosures,

Copied by

Examined by

GPB— 10,000—23-5-08

No 1899 ~~Encls~~ 29/10

Mur. D 91-09-8

Letters Nos 1833 and 1834 dated both the 26th Jan.y 1910, to the D.C. Judge, Mysore and the Munsiff of Hole Narsipur, respectively.

Copies of the above are forwarded to Mr. H Narasinga Rao, Advocate for the Sri Uttaradi Math Swamigalu, with reference to his petn. no D. 986 dated 9th Nov. 909.
Mur. 91-09-8

By Order,

29/1/1910
for Secretary

29-1-10

4. 2. 10

MC: 1035/500

D 14475

From

The District Judge, Kolar 91-09-10

MYSORE.

To

The Secretary to the Government of Mysore.

Genl. and Revenue Depts.

Bangalore.

Dated Mysore, the 1 3rd February 1910.

Sir,

With reference to your letter No. 1868/ .F. 91-09 dated 2 Jan 1910 regarding the attachment of money belonging to Mitarajini Dutt, I have the honour to state that I understand you to mean that the Government are of opinion that the moneys of the suit- their accounts are not liable to be attached in execution of the decrees sought to be executed, and therefore, to request you to be good enough to instruct the Advocate-General to file a formal petition in the Court on behalf of Government setting forth the above facts and praying that the attachment may be removed and declared illegal. Should the Advocate-General be disposed to file such a petition, he should be supplied with a power-of-attorney executed by the Secretary to Government in his official capacity.

I have the honour to be,

Sir,

Your most obedient servant,

District Judge.

26]

File No.

Serial No.

Diary No. of letter replied to 1475

No. 2080

Mys. 7. 91-09-12

General and Revenue Secretariat

(Mysore)

, *the* 190

To

The District Judge

Mysore

Sir,

Date of issue 21st February 10

Signed by Mr. A. S. Iyer

With reference to your letter No. 1935/580 dated 18th February 1910 regarding the attachment of money belonging to the Sri Uttaradi Mutt, I am directed to state that the Govt. do not ~~prepared~~ consider it necessary to institute any proceedings in Court as suggested by you.

I have &c

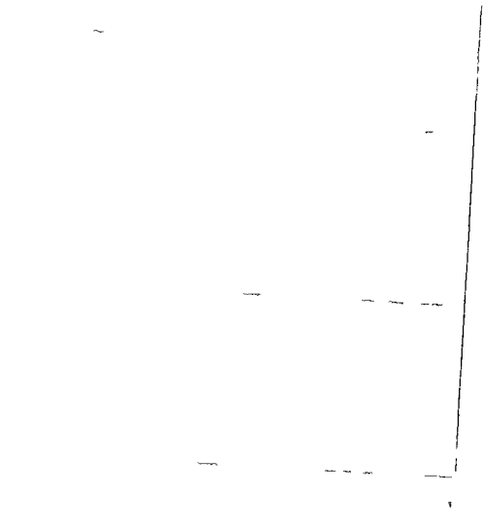
for Secretary

17/2/10

U.S.P./10

Over.

SUBJECT.



List of enclosures,

Copied by

Examined by

GPB—10,000—23-5-08

District Judge of Mysore.

" Munsif of Holenarsipur

Nos 1833 & 1834 dated 26th January

states that Govt does not hold the moneys of the Sri Uttaradi Matt in its hands to be liable to satisfy the decrees sought to be executed against the Matt.

Sl No 10. From the District Judge of Mysore.

No 1935/580 dated 1st Febr 1910

Requests that in that case, the legal Agent may be instructed to file a formal objection-Statement on behalf of Government so that the matter may be duly investigated and decided under Section 278 of C.P.C. and states that the hearing for this purpose has been adjourned to 15th March 1910.

Sl No 11 To the District Judge Mysore.

No 2080 dated 21st February 1910

States that Government do not consider it necessary to institute any proceedings in Court as suggested by him.

B.A. Saletore

Recorder.